

Equipment that may be sold tax-exempt includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphics arts product. See 35 ILCS 120/2-5(4). (This is a GIL).

February 26, 2002

Dear Xxxxx:

This is in response to your letter dated December 6, 2001 and email dated December 4, 2001. The nature of your letter and email and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200>.

In your letter you stated and made inquiry as follows:

The Illinois Department of Revenue recently issued an informational bulletin entitled 'Miscellaneous Sales and Use Tax Changes' dated September 2001 with the form number FY 2002-01. We received this bulletin in the mailing of the blank ST-1 forms for the fourth quarter of 2001. Under the heading 'Manufacturing and Graphic Arts Machinery and Equipment Exemption Changes' it reads 'Effective August 23, 2001, the term 'equipment' as used in the exemption for manufacturing and equipment and graphic arts production has been expanded to include additional items.' Further down in the bulletin it reads 'What are the Changes for Graphic Arts Production? In regard to graphic arts production the term 'equipment' now includes chemicals or chemicals acting as catalysts when they produce a direct and immediate change upon a graphic arts product.'

We currently sell hundreds of chemical products that would qualify for the tax exemption under the wording used in this bulletin. In our attempt to comply with the Illinois Department of Revenue Sales and Use Tax Regulations, I am requesting a letter ruling on the following five categories of chemicals that we understand to be tax exempt as of August 23, 2001.

Fountain Solutions, Fountain Additives, Etching Solution

Chemicals added to the water fountain on the press to help in controlling the conductivity and the pH level. If the conductivity and the pH level are not correct, the ink will not react correctly to the paper. These chemical solutions are also necessary in keeping the plates running clean on the press.

Developer/Activator for Film and Plates

Chemicals used to develop the image on the film or plate.

Fixer/Stabilizer for Film and Plates

Chemicals used to stop the development of the image on the film or plate.

Blanket Washes/Cleaners for Film and Plates, Roller Washes/Cleaners for Film and Plates

Chemicals used to keep the image on the film and plate clean.

Finisher Preserver

Chemicals used to preserve the plate so they can be used repeatedly.

Several of our clients have also received this bulletin and are expecting us to sell these chemicals as tax exempt now. It is our intent to honor the tax exemption back to the date of issuance. For this reason, we would appreciate a timely response for our request for this letter ruling.

I would also like to know if we will be required by the Illinois Department of Revenue to have our customers sign an additional form to receive the tax exemption for the chemicals. It is currently my understanding that if we have a signature for 'graphic arts equipment' and per your bulletin the term 'equipment' has been expanded to include chemicals, that another signature is not required to receive the tax exemption on the chemicals.

If you should have any additional questions, I can be contacted at this e-mail address.

The Retailers' Occupation Tax and the Use Tax do not apply to the sale of machinery and equipment, including repair and replacement parts, both new and used and including that manufactured on special order to be used primarily in graphic arts production. Public Act 92-484, which became effective August 23, 2001, amended the sales and use tax laws to expand the definition of graphic arts equipment. Now considered equipment that may be sold tax-exempt are "chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product". See 35 ILCS 120/2-5(4) and 35 ILCS 105/3-5(6). The Department has recently proposed changes to its regulations governing graphic arts machinery and equipment exemption to include the amendment made by Public Act 92-484. This rulemaking has yet to be adopted. Please find enclosed for your reference a copy of the proposed 86 Ill. Adm. Code 130.325, Graphic Arts Machinery and Equipment Exemption. 25 Ill. Reg. 14070, Issue 44.

Graphic arts production means printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System (NAICS) published by the U.S. Office of Management and Budget, 1997 edition. The exemption is, therefore, limited to qualifying machinery and equipment used in the printing processes described in the NAICS. See 86 Ill. Adm. Code 130.325(b)(1)(A) and (C).

In order for the chemicals sold by AAA to be considered tax-exempt, the chemicals must (1) effect a direct and immediate change upon a graphic arts product and (2) be used by its customers primarily in a printing process described in the specified eligible groups of the NAICS. We are unable to make a determination from the information provided in your email and letter whether the chemicals purchased by your customers will be used primarily in an exempt process. If your customers are using the five categories of chemicals described in your email primarily in an exempt process then such chemicals must effect a direct and immediate change upon the graphic arts product the

customer is producing in order for the sale of such chemicals to be tax exempt. From the brief descriptions of the chemicals given, it appears that the Fountain Solutions, Fountain Additives and Etching Solution may be chemicals that are producing a direct and immediate change upon a graphic arts product. A definitive determination cannot be made, however, based on the limited information provided. Similarly, we cannot make a determination from the limited information you provided how the other chemicals you describe are used so as to make a determination whether such chemicals produce a direct and immediate change upon a graphic arts product.

To claim the exemption for the purchase of eligible chemicals your customers must certify to AAA as their supplier that the equipment will be used primarily for graphic arts production. The certificate must include AAA's name and address, the customer's name and address and a statement that the property purchased will be used primarily in graphic arts production. AAA must maintain such certificates in its books and records. A blanket certificate of exemption is not permitted. See 86 Ill. Adm. Code 130.325(b)(8).

I hope this information has been helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales and use tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Sincerely,

Dana Deen Kinion
Associate Counsel

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